

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

BRETT D. KLAITTER,  
RESPONDENT.

:  
:  
: FINAL DECISION AND ORDER  
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**0004694**

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Division of Legal Services and Compliance Case No. 16 RSA 007

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Brett D. Klawitter  
1001 Manchester St.  
Baraboo, WI 53913

Wisconsin Department of Safety and Professional Services  
P.O. Box 8368  
Madison, WI 53708-8368

Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190  
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Brett D. Klawitter, DOB November 27, 1976, is certified in the state of Wisconsin to practice clinical substance abuse counseling, having certificate number 15960-132, first issued on October 2, 2015 and current through February 28, 2017. Respondent is also certified as a substance abuse counselor in-training, having certificate number 16411-130, first issued on September 30, 2011 and current through February 28, 2017. Respondent's most recent address on file with the Department is 1001 Manchester Street, Baraboo, Wisconsin 53913.

2. At all times relevant to this proceeding, Respondent was employed as a substance abuse counselor at a hospital-based AODA treatment program (facility), located in Baraboo, Wisconsin.

3. Patient A was a woman who had received AODA treatment, including as an inpatient, on multiple occasions between approximately 2012 and 2016.

4. A facility psychotherapist with 20 years of experience described Patient A as the “most damaged patient she has worked with.”

5. Sometime in 2012, while Respondent was providing substance abuse counseling to Patient A, he engaged in sexual contact with Patient A after a group session.

6. On March 22, 2016, Respondent, while providing treatment to Patient A in his office at the facility, engaged in sexual contact with Patient A.

7. Between March 29 and April 4, 2016, during separate interviews with the facility staff and with law enforcement, Respondent denied having had sexual contact with Patient A.

8. On April 4, 2016, during a second interview with law enforcement, Respondent admitted that, while providing counseling to Patient A, he had twice engaged in sexual contact with her, most recently in March of 2016.

9. Law enforcement’s investigation revealed several text messages from Respondent’s personal cell phone to Patient A’s phone and several Facebook® messages. Cell phone and Facebook® contacts between counselors and patients were against facility rules. Respondent now admits that in sending the messages to Patient A he had been “stepping outside the scope of counseling.”

10. On April 13, 2016, in Sauk County Circuit Court case no. 2016CF119, Respondent was charged with one (1) count Sexual Exploitation by Therapist, in violation of Wis. Stat. § 940.22(2), a felony.

11. Respondent neither admits nor denies these allegations. He regrets any additional trauma that Patient A may have experienced while he counseled her. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction to act in this matter pursuant to Wis. Stat. § 440.88, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Brett D. Klawitter engaged in unprofessional conduct as defined by Wis. Admin. Code § SPS 164.01(2)(m), by engaging in sexual contact with a patient.

3. By the conduct described in the Findings of Fact, Brett D. Klawitter engaged in unprofessional conduct as defined by Wis. Admin. Code § SPS 164.01(2)(n), by failing to avoid dual relationships that may impair the substance abuse professional's objectivity or create a conflict of interest.

4. As a result of the violations noted in the Conclusions of Law, Respondent Brett D. Klawitter is subject to discipline pursuant to Wis. Stat. § 440.88(6).

### ORDER

1. The attached Stipulation is accepted.

2. The certificates to practice substance abuse counseling in the state of Wisconsin issued to Brett D. Klawitter (certificate nos. 15960-132 and 16411-130) are SUSPENDED for a period of at least 18 months from the date of this Order. After at least 18 months from the date of this Order, Respondent may petition the Department for termination of the suspension upon proof acceptable to the Department's designee that he has satisfied the requirements set out in paragraphs 3, 4 and 7, below.

3. No earlier than six months before any petition to terminate the suspension, Respondent shall undergo an evaluation by a mental health care professional who is competent to determine whether or not Respondent is impaired as a result of any illness or condition that impairs Respondent's ability to appropriately carry out his professional functions in a manner consistent with the safety of patients or the public. Any petition to terminate the suspension must be accompanied by the evaluator's written report including a recommendation to terminate the suspension, with or without reasonable limitations.

4. The evaluator must be preapproved by the Department's designee, under the following terms:

- a. Before undergoing the evaluation, Respondent shall submit to the Department Monitor a copy of the evaluator's curriculum vitae, and copies of professional licenses and certifications held.
- b. The evaluator must be a licensed doctorate-level psychologist who is certified in a relevant field of practice by the American Board of Professional Psychology or a licensed psychiatrist who is certified in a relevant field of practice by the American Board of Psychiatry and Neurology. At the discretion of the Department's designee, additional experience in a relevant field of practice may be substituted for Board certification. At the discretion of the Department's designee, alternate Board recognitions, such as fellowships, may also be substituted for Board certification.

- c. The evaluator must have had no previous personal or professional relationship with Respondent, and may not have previously evaluated or treated Respondent.
  - d. The evaluator shall have had a minimum of ten years of experience in the practice of psychology or psychiatry, and may not have been previously disciplined by any credentialing authority.
5. The evaluation shall proceed under the following terms:
- a. While the evaluator remains responsible for the final evaluation, the evaluator may delegate testing or other components of the evaluation to other mental health professionals who the evaluator deems competent to conduct those tests or perform the delegated task.
  - b. The exact tests chosen for administration are within the discretion of the evaluator. However, the evaluation must include a comprehensive interview of the individual and the use of rating scales, neuropsychological testing, and personality tests.<sup>1</sup>
  - c. The evaluation shall include an assessment of Respondent's ability to appropriately maintain professional boundaries while providing services as a mental health professional of any kind, including as a substance abuse counselor.
  - d. Within thirty (30) days of the completion of the evaluation, a written report regarding the results shall be submitted to Department Monitor at the address below.
  - e. The evaluator shall identify restrictions on the nature of practice or practice setting or requirements for supervision of practice, if any, which are necessary to render Respondent able to practice substance abuse counseling with reasonable skill and safety.
  - f. The evaluator shall identify specific mental health treatment goals, if any, which must be met before Respondent is able to practice substance abuse counseling with reasonable skill and safety.

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<sup>1</sup> Commonly used tests include the Beck Anxiety Inventory, Beck Depression Inventory-II, Brief Psychiatric Rating Scale (BPRS), Bums Anxiety Inventory, Bums Depression Inventory, Hamilton Anxiety Rating Scale, Hamilton Depression Rating Scale, Inventory to Diagnose Depression, Profile of Mood States (POMS), State-Trait Anxiety Inventory (STAI), Symptom Checklist-90-Revised, Taylor Manifest Anxiety Scale, Yale-Brown Obsessive-Compulsive Scale, Kaufman Adolescent and Adult Intelligence Test, Rorschach, Wechsler Adult Intelligence Scale-III or IV (WAIS-III or WAIS-IV), Wechsler Memory Scale IV (WMS-IV), Category Test, Continuous Performance Test, Halstead-Reitan Neuropsychological Test Battery, MMPI2, NEO Personality Inventory, PAI, and the Thematic Apperception Test.

- g. The evaluator's opinions and conclusions must be rendered to a degree of reasonable professional certainty.
- h. Respondent shall authorize release directly to the evaluator of records of mental health evaluations, diagnosis, and treatment that Respondent has undergone since practicing substance abuse counseling, and such other records that the evaluator determines are necessary to a competent evaluation.
- i. Prior to undergoing the evaluation, Respondent shall provide a copy of this Order and all related police reports to the evaluator with written acknowledgement from the evaluator in the evaluation report that a copy of this Order and police reports has been received.
- j. Respondent is responsible for the costs associated with the evaluation.
- k. Respondent shall authorize the evaluator to discuss the results of the evaluation with the Department or its designee.

6. The certificates to practice substance abuse counseling issued to Brett D. Klawitter (certificate nos. 15960-132 and 16411-130) are LIMITED as follows:

- a. At least thirty (30) days before Respondent begins engaging in the practice of substance abuse counseling after termination of the suspension, Respondent shall engage the services of a professional mentor who is a credentialed mental health professional in the state of Wisconsin, and who has not been disciplined by the Department and/or Board.
- b. At least thirty (30) days before Respondent begins engaging in the practice of substance abuse counseling after the suspension, Respondent shall submit to the Department Monitor at the address below a written request for approval of a proposed mentor. The request for approval shall be accompanied by the mentor's current curriculum vitae and a letter from the mentor confirming that he or she has read this Order and agrees to undertake the duties of a professional mentor as set out in this paragraph.
- c. The professional mentor shall be actively engaged in practice as a mental health provider credentialed by the State of Wisconsin, and shall not have any personal or professional relationship, past or present, with Respondent that could reasonably be expected to compromise the proposed mentor's ability to render fair and unbiased reports to the Department.
- d. The Department has the full and final authority to approve or reject a proposed mentor. This decision is based on an exercise of discretion and is not reviewable. The Department may, for good cause, approve or direct a change in the professional mentor at any time.

- e. Every month, for a period of 24 months, the mentor shall visit and inspect Respondent's practice, for the purposes of determining whether or not Respondent is maintaining professional boundaries with patients consistent with standards of the counseling profession.
- f. During the monthly visit, the mentor shall randomly select and review the charts of at least five (5) patients that have presented to Respondent in the preceding month. The chart review shall thoroughly assess whether Respondent's records are compliant with the rules and regulations of the profession and completed in a timely manner. Records shall be assessed at the standard of minimum competence.
- g. The professional mentor shall offer feedback and direction to Respondent for the purposes of assisting Respondent in maintaining professional boundaries with patients. Respondent shall follow the appropriate guidance of the mentoring mental health professional. Whether or not guidance of the mentoring mental health professional is appropriate and whether or not Respondent has complied with the guidance shall be in the sole discretion of the Department. These discretionary determinations are not reviewable.
- h. The mentor shall submit written and thorough quarterly reports identifying the number of charts reviewed in the previous quarter and identifying any concern(s) with Respondent's practice. It is Respondent's responsibility to ensure the quarterly reports are submitted when due.
- i. The mentor shall immediately report any unprofessional conduct or suspected violation of this Order to the Department Monitor.
- j. After the timely submission of eight (8) consecutive quarterly mentor reports, and with a written recommendation from the mentor expressly supporting the request, Respondent may petition the Department or its designee for modification or termination of any part of this limitation. The Department shall grant the petition if Respondent establishes to the satisfaction of the Department's designee that Respondent does not need the services of the professional mentor to practice with reasonable skill and safety. Whether to remove this limitation or to modify the terms of this limitation is in the sole discretion of the Department or its designee and is not reviewable.
- l. Respondent is responsible for any and all costs associated with the services of the professional mentor.
- m. The professional mentor may be an employment supervisor if approved by the Department or its designee.

7. The certificates to practice substance abuse counseling issued to Brett D. Klawitter (certificate nos. 15960-132 and 16411-130) is further LIMITED as follows:

- a. Before submitting any petition for termination of the suspension, Respondent shall successfully complete twelve (12) hours of education on the topic of boundaries offered by a provider pre-approved by the Department's monitoring liaison, including taking and passing any exam offered for the courses.
- b. Respondent shall submit proof of successful completion of the ordered remedial education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.
- c. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
- d. This limitation shall be removed from Respondent's certificate after satisfying the Department that Respondent has successfully completed all of the ordered education.

8. Before petitioning for termination of the suspension required of this Order, Respondent shall pay COSTS of this matter in the amount of \$503.33.

9. Request for approval of an evaluator and mentor, any petitions, reports or documents, request for approval of courses, proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
[DSPSMonitoring@wisconsin.gov](mailto:DSPSMonitoring@wisconsin.gov)

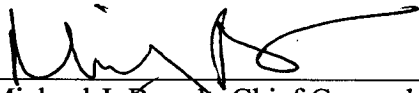
10. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's certificate. The Department in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to comply with recommendations of the evaluator or the professional mentor, or fails to timely submit reports, Respondent's certificates (nos. 15960-132 and 16411-130) may, in the discretion of the Department or its designee, be



SUSPENDED, without further notice or hearing, until Respondent has complied with the mentor's recommendations or the evaluator's recommendations to the satisfaction of the Department's designee.

11. This Order is effective on the date of its signing.

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

By:   
Michael J. Berndt, Chief Counsel  
On Behalf of the Department

5/2/16  
Date

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

BRETT D. KLAITTER,  
RESPONDENT.

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STIPULATION

0004694

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Division of Legal Services and Compliance Case No. 16 RSA 007

Respondent Brett D. Klawitter and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Department of Safety and Professional Services (Department). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's Order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the

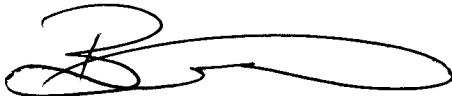
Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Department, the parties agree not to contend that the Department has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance may appear before the Department, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that the Department may have in connection with deliberations on the Stipulation.

8. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order would constitute an agency finding within the meaning of Wis. Stats. §§ 48.685 and 50.065. Should Respondent wish to work in a Wisconsin DHS-licensed facility in any role, Respondent will need to pass a Rehabilitation Review through DHS prior to commencement of such employment.

7. Respondent is informed that should the Department adopt this Stipulation, the Department's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

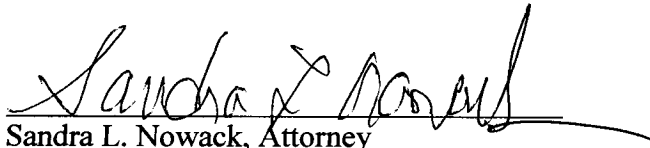
8. The Division of Legal Services and Compliance joins Respondent in recommending that the Department adopt this Stipulation and issue the attached Final Decision and Order.



Brett D. Klawitter, Respondent  
1001 Manchester St.  
Baraboo, WI 53913  
Certificate nos. 15960-132 and 16411-130

4/30/16

Date



Sandra L. Nowack, Attorney  
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Department of Safety and Professional Services  
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Madison, WI 53707-7190  
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5/3/16

Date